

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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IN RE MICROSOFT CORP.  
ANTITRUST LITIGATION.

MDL Docket No. 1332

Hon. J. Frederick Motz

This Document relates to:

*Burst.com, Inc. v.*  
*Microsoft Corp.,*

Civil Action No JFM-02-cv-2952

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**MOTION FOR RELIEF FROM LOCAL RULE 104.8(c) AND MOTION FOR ORDER  
SHORTENING TIME FOR HEARING OF BURST.COM, INC.'S MOTION TO  
COMPEL MICROSOFT TO PRODUCE DOCUMENTS RELATING TO ITS  
DOCUMENT PRESERVATION POLICY AND PRACTICE**

Plaintiff Burst.com hereby moves this Court for (1) an order relieving it of the requirements of Local Rule 104.8(c), regarding service of papers and final meet and confer prior to filing a discovery motion with the Court and (2) an order shortening time in which Burst's Motion to Compel Microsoft to Produce Documents Relating to Its Document Preservation Policy and Practice may be heard; and (3) an order unsealing this motion. The motion is attached hereto as Exhibit A (perforce filed under seal). In support of this Motion, Burst shows as follows:

1. On August 18, 2004, Burst emailed to Microsoft's counsel a copy of its Motion to Compel and the following day served the motion with exhibits. Burst requested expedited briefing.
2. Microsoft has scheduled the deposition of Thomas Burt for September 8, 2004.
3. Burst has previously filed three motions regarding Microsoft's e-mail retention policies. Those issues remain in discovery. In light of the impending deposition of Mr. Burt and

the approaching close of discovery, Burst respectfully requests that this Court entered its order, exempting this motion from the requirements of local Rule 104.8 (c) and shortening time.

4. Counsel for Burst has several times requested concurrence of Microsoft's counsel in shortening time and waiving the requirements of Local Rule 104.8(c). Microsoft's counsel has not, as of the time of filing this motion, concurred.

5. Burst requests that the Court order the motion be briefed and heard on the following schedule, or on a schedule of the Court's convenience:

Microsoft file and serve Opposition: August 30;

Burst file and serve reply brief: September 3; and

Hearing: September 6 or thereafter.

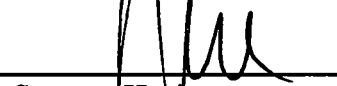
6. Burst was required by the protective order in this case to file under seal. However, none of the attached exhibits reflect sensitive trade secret or other information warranting sealed status. This motion also involves a subject matter of considerable public interest. Given the strong policy against sealed records and proceedings, Burst respectfully requests that this motion be ordered unsealed.

DATED: August 23, 2004

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By

A handwritten signature in black ink, appearing to read "Spencer Hosie", is written over a horizontal line.

Spencer Hosie

Attorneys for Plaintiff Burst.com, Inc.

# EXHIBIT A

**(FILED SEPARATELY UNDER SEAL)**